

2016-033896

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CHRIS YAMAMOTO

CANYON COUNTY RECORDER

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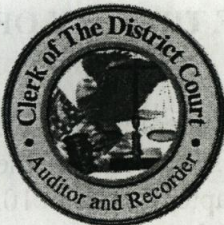
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ORDINANCE

NAMPA CITY OF



# Canyon County Recorder's Office Document Cover Sheet



REC'D AUG 31 2016



**ORDINANCE NO. 4275**

**AN ORDINANCE DETERMINING THAT CERTAIN LANDS, COMMONLY KNOWN AS 0, 9364, 9326, AND 0 CHERRY LANE, NAMPA, IDAHO, COMPRISING APPROXIMATELY 39.25 ACRES, MORE OR LESS, LAY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO, AND THAT SAID LANDS SHOULD BE ANNEXED INTO THE CITY OF NAMPA, IDAHO, AS PART OF THE IH (HEAVY INDUSTRIAL) ZONE; DECLARING SAID LANDS BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW TO BE A PART OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER AND PLANNING AND ZONING DIRECTOR TO ADD SAID PROPERTY TO THE OFFICIAL MAPS OF THE CITY OF NAMPA, IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND, DIRECTING THE CLERK OF THE CITY OF NAMPA TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREA TO BE ANNEXED WITH CANYON COUNTY, STATE OF IDAHO AND THE IDAHO STATE TAX COMMISSION, PURSUANT TO IDAHO CODE, SECTION 63-215.**

**BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO:**

**Section 1.** That the Nampa City Council, upon recommendation of the Planning & Zoning Commission, and following the public notice and hearing procedures set forth in the Local Land Use Planning Act and Nampa City Code § 10-03-08 and Chapter 2, Title 10, approved Case No. ANN 2197-16 (Zane Powell Annexation) at a public hearing held on June 20, 2016.

**Section 2.** The following described property, commonly known as 0, 9364, 9326, and 0 Cherry Lane, Nampa, Canyon County, Idaho, is contiguous to the City of Nampa, Idaho and the applicant has requested that said following described property should be annexed into the City of Nampa as IH (Heavy Industrial):

**See Exhibit "A," attached hereto and made a part hereof by this reference.**

**Section 3.** That the above-described property is hereby annexed into the corporate limits of the City of Nampa and zoned IH (Heavy Industrial).

**Section 4.** That the City Engineer and the Planning & Zoning Director of the City of Nampa, Idaho, are hereby instructed to so designate the same above described property on the official zoning map and other area maps of the City of Nampa, Idaho as lying within the city limits and zoned IH (Heavy Industrial).

**Section 5.** All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.



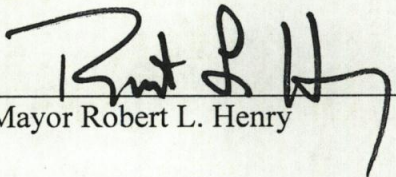
**Section 6.** This ordinance shall be in full force and in effect from and after its passage, approval and publication, according to law.

**Section 7.** The Clerk of the City of Nampa, Idaho shall, within 10 days following the effective date of this ordinance, duly file a certified copy of this ordinance and a map prepared in a draftsman-like manner plainly and clearly designating the boundaries of the City of Nampa, including the land herein annexed, with the following officials of the County of Canyon, State of Idaho, to-wit: the Recorder, Auditor, Treasurer and Assessor and shall file simultaneously a certified copy of this ordinance with the State Tax Commission of the State of Idaho, all in compliance with Idaho Code 63-215.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, THIS 15TH DAY OF AUGUST, 2016.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, THIS 15TH DAY OF AUGUST, 2016.

Approved:

  
\_\_\_\_\_  
Mayor Robert L. Henry

Attest:

  
\_\_\_\_\_  
City Clerk (or Deputy)



State of Idaho )

Canyon County )

On this 15th day of August, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert L. Henry and Deborah L. Bishop known to be the Mayor and City Clerk of the City of Nampa, Idaho, a municipal corporation, who executed the foregoing instrument.

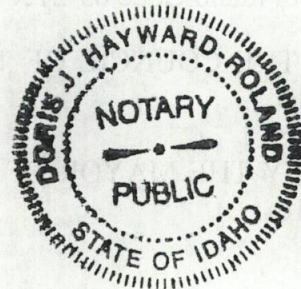
In Witness Whereof, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

Doris J. Hayward-Roland

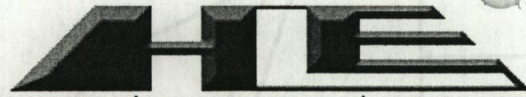
Doris J. Hayward-Roland

Residing at: Nampa, Canyon County, Idaho

My Commission Expires: 08/15/2019







**LAND SURVEYING | 3D SCANNING | DESIGN SURVEYING  
CIVIL AND STRUCTURAL ENGINEERING | MATERIALS TESTING**

FOR: Conrad & Bishoff

JOB No. 15-501

DATE: April 25, 2016

BY: CGS

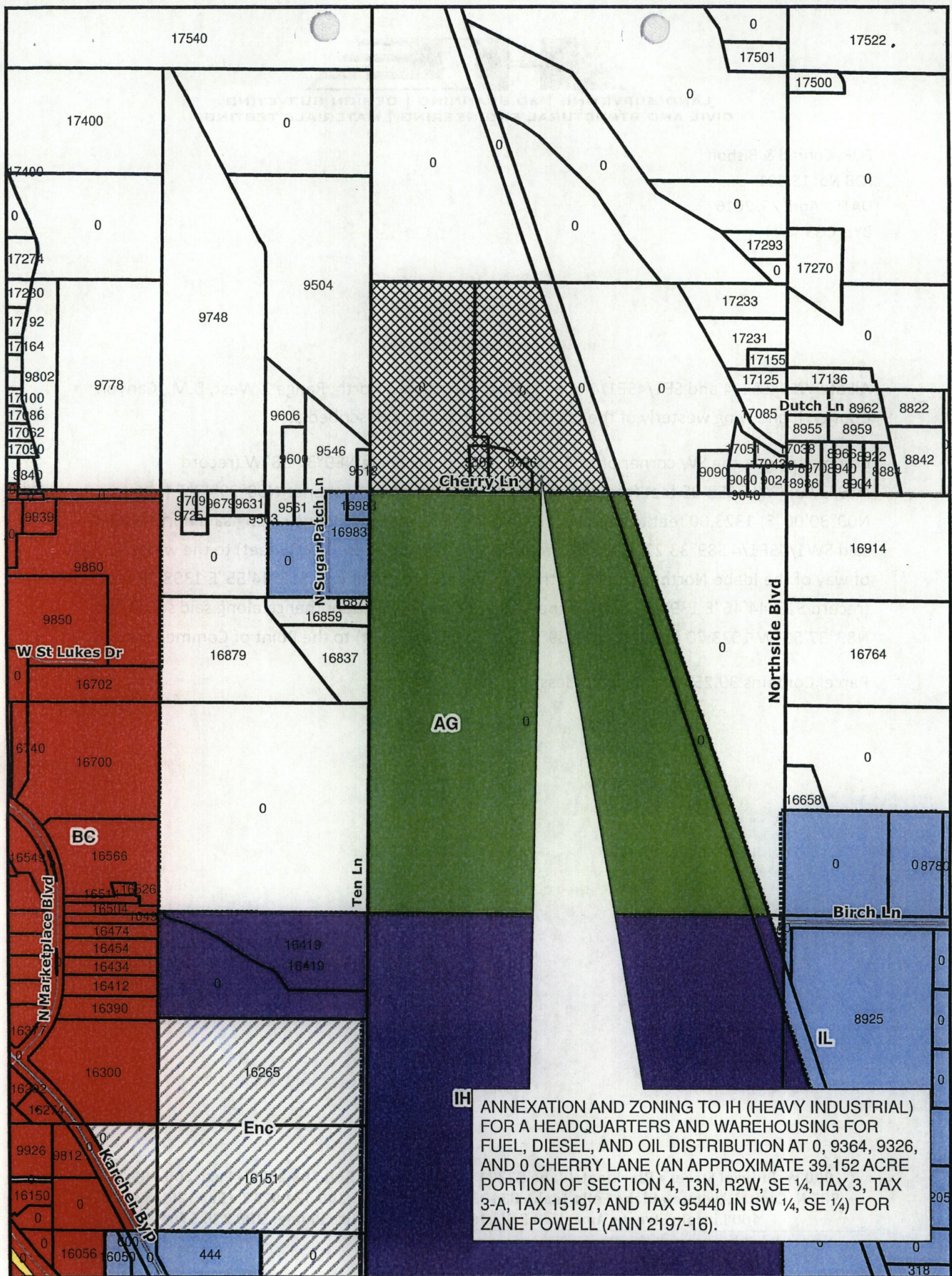
### Annexation Description

All of SW1/4SE1/4 and SE1/4SE1/4 of Section 4, Township 3 North, Range 2 West, B.M., Canyon County, Idaho lying westerly of the Idaho Northern Railway described as:

Commencing at the SW corner of said SW1/4SE1/4 point being N89°37'38"W (record N89°37'38"W) 2653.05 feet from the SE corner of said Section 4; thence N00°29'47"E (record N00°30'00"E) 1323.00 feet to the north line of said SW1/4SE1/4; thence along said north line of said SW1/4SE1/4 S89°33'27"E 1062.65 feet (record S89°33'14"E 1062.35 feet) to the westerly right of way of the Idaho Northern Railway; thence along said right of way S18°44'55"E 1398.78 feet (record S18°44'46"E 1398.79 feet) to the south line of said Section; thence along said south line N89°37'51"W 1523.70 feet (record N89°37'38"W 1523.43 feet) to the Point of Commencement.

Parcel Contains 39.25 Acres more or less







## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this 8 day of August, 2016 (the "Effective Date"), by and between the City of Nampa, a municipal corporation, hereinafter referred to as the "City," and: Conrad & Bischoff, Inc., hereinafter referred to as "Owner(s)/Developer(s)."

### RECITALS

- A. Owner(s)/Developer(s) is the owner of approximately 39.25 acres of real property legally described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").
- B. Owner(s)/Developer(s) applied to City on or about April 27, 2016 (the "**date of application**") for annexation into the incorporated limits of the City, and, assignment of zoning to/for the Property to IH (Heavy Industrial) in anticipation of developing the Property for a small apartment complex (hereinafter the "**Project**").
- C. City, pursuant to Section 10-2-5, Nampa City Code, and Idaho Code Section 50-222, has the authority to annex the Property for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for specific purposes and/or uses that are appropriate in the area.
- D. City's Planning and Zoning Commission and City's City Council have held public hearings as prescribed by law with respect to the annexation, zoning district assignment and development of the Property and the terms of this Agreement. City has approved the requested annexation, zoning of the Property to IH and use of the Property for the above stated purpose subject to the terms and commitments contained in this Agreement.

### AGREEMENT

**NOW THEREFORE**, in consideration of the above recitals, which are incorporated below, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. This Agreement shall not prevent City, in subsequent actions applicable to the Property, from applying new ordinances and regulations of general application adopted by City in the exercise of its police powers that do not conflict with the parties' commitments applicable to the Property as set forth herein, or the zoning designation approved hereby as the Property has been deemed suitable for the uses allowed within said zoning designation..
2. This Agreement is intended to be supplemental to all other local, city, state and federal Code requirements, rules and regulations, and is established to help assure the compatibility of the resulting land use with the surrounding area. Provided, however, that to the extent this



Agreement conflicts with any provision of the Nampa City Code, this Agreement shall prevail to the extent permitted by law.

3. The Project shall be developed in phases and in reasonably substantial conformance with any conceptual plans (i.e., site, landscape and building elevations) attached hereto as **Exhibit(s) "B"** and made a part hereof"; provided, however, that Owner(s)/Developer(s) shall have limited flexibility to develop the Property to meet market conditions within the bounds of the City's ordinances, and, the only specific commitments concerning development of the Project which Owner(s)/Developer(s) is making are set forth herein. Upon recordation of this Agreement, Owner(s)/Developer(s) shall have all entitlement approvals required from City for development of the Project in substantial conformance with the Conceptual Plan.

4. The provisions and stipulations of this Agreement shall be binding on City, Owner(s)/Developer(s), each subsequent owner of the Property or portion thereof, and each other person acquiring an interest in the Property and as iterated, in no particular order, in the Condition(s) of Approval attached hereto as **Exhibit "C"**, and by this reference incorporated herein.

5. This Agreement may be modified only by the written agreement of Owner(s)/Developer(s) and the City after complying with the notice and hearing procedures required under Idaho Code Section 67-6511A or Nampa City Code Section 10-2-5(D) or successor provisions.

6. The execution of this Agreement and the written commitments contained herein shall be deemed written consent to change the zoning of the Property to its prior designation upon failure of Owner(s)/Developer(s) to comply with the terms and conditions of this Agreement. Provided, however, that no such consent shall be deemed to have been given unless City provides written notice of any such failure and Owner(s)/Developer(s) or its successors and/or assigns fails to cure such failure as set forth below.

7. This Agreement and the commitments contained herein shall be terminated, and the zoning designation reversed, upon the failure of Owner(s)/Developer(s), or each subsequent owner or each person acquiring an interest in the Property, to comply with the commitments contained herein within two (2) years after the Effective Date, and after the notice and hearing requirements of Idaho Code Section 67-6509 have been complied with by City. Exception: the failure to begin site development of all or a portion of a project proposed under this Agreement does not necessarily serve as impetus to allege that the commitments contained herein are not being fulfilled. Rather, commencement of site work and/or construction then left in abandon or failure to abide by the terms of this Agreement, as herein iterated, shall serve as impetus to consider termination of this Agreement and reversion of zoning. Provided, however, no such termination or reversal shall occur unless City provides written notice of Owner(s)/Developer(s) failure to comply with the terms and conditions of this Agreement to Owner(s)/Developer(s) and Owner(s)/Developer(s) fails to cure such failure within six (6) months of Owner(s)/Developer(s) receipt of such notice. The two (2) year period of time for compliance with commitments may be extended by City for good cause upon application for such extension by Owner(s)/Developer(s), and after complying with the notice and hearing provisions of Idaho Code Section 67-6509.



8. Except as specifically set forth in this Agreement, the rules, regulations and official policies governing permitted uses of land, density, design, improvements and construction standards and specifications applicable to the Project and the Property shall be those rules, regulations and official policies in effect as of the date of annexation. Provided, however, that the applicable building codes for structures shall be the codes in effect when a complete application for a building permit is filed. Development impact fees, if imposed by ordinance, shall be payable as specified in said ordinance even if the effective date is after the date of this agreement or the annexation pursuant thereto.

9. It is intended by the parties that this Agreement shall be recorded on the Effective Date or as soon as practicable thereafter. The parties further intend that the provisions of this Agreement shall run with the Property and shall be binding upon City, Owner(s)/Developer(s), each subsequent owner of the Property, and each other person or entity acquiring an interest in the Property.

10. If any term or provision of this Agreement, to any extent, shall be held invalid or unenforceable, the remaining terms and provisions herein shall not be effected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

11. This Agreement sets forth all promises, inducements, agreements, conditions and understandings between Owner(s)/Developer(s) and City relative to the subject matter hereof. There are no promises, agreements, conditions or understandings, either oral or written, express or implied, between Owner(s)/Developer(s) and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by the parties or their successors-in-interests or their assigns, and pursuant, with respect to the City, to a duly adopted ordinance or resolution of the City.

12. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction.

13. This Agreement may be executed in counterparts, each of which shall constitute an original, all of which together shall constitute one and the same Agreement.

14. In the event Owner(s)/Developer(s), its successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, or in the event City, fail to faithfully and materially comply with all of the terms and conditions included in this Agreement, enforcement of this Agreement may be sought by either City or Owner(s)/Developer(s) or by any successor or successors in title or interest or by the assigns of the parties hereto, in an action at law or in equity in any court of competent jurisdiction.

- a. A waiver by City of any default by Owner(s)/Developer(s) of any one or more of the covenants or conditions hereof shall apply solely to the breach waived and shall not bar any other rights or remedies of City or apply to any subsequent



breach of any such or other covenants and conditions. A waiver by Owner(s)/Developer(s) of any default by City of any one or more of the covenants and conditions hereof shall apply solely to the breach waived and shall not bar any other rights of remedies of Owner(s)/Developer(s) or apply to any subsequent breach of any such or other covenants and conditions.

- b. Notwithstanding anything to the contrary herein, in the event of a material default of this Agreement, the parties agree that City and Owner(s)/Developer(s) shall have thirty (30) days after delivery of notice of such default to correct the same prior to the non-defaulting party's seeking of any remedy provided for herein; provided, however, that in the case of any such default which cannot with diligence be cured within such thirty (30) day period and thereafter shall prosecute the curing of same with diligence and continuity, then the time within which such may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity, but in any event not to exceed six (6) months; and provided further, however, no default by a subsequent owner of a portion of the Property shall constitute a default by Owner(s)/Developer(s) for the portion of the Property still owned by Owner(s)/Developer(s).
- c. In the event the performance of any obligation to be performed hereunder by either Owner(s)/Developer(s) or City is delayed for causes that are beyond the reasonable control of the party responsible for such performance, which shall include, without limitation, acts of civil disobedience, strikes or similar causes, the time for such performance shall be extended by the amount of time of such delay.
- d. In addition to the remedies set forth above, in the event of a default by Owner(s)/Developer(s), or any other party claiming an interest herein, City may withhold building permits for any remaining lots within the development until such time as the default is cured.



IN WITNESS WHEREOF, the parties hereto have hereunto set their hands on this day and year first above written.

CITY OF NAMPA



Robert L. Henry  
Robert L. Henry, Mayor

Debbie Bishop  
Attest: Debbie Bishop, City Clerk

OWNER(S)/DEVELOPER(S)

C James House

STATE OF IDAHO )

) ss.

County of Canyon )

On this 15<sup>th</sup> day of August, in the year of 2016, before me  
Doris J. Hayward-Roland, personally appeared Robert L. Henry, known or identified to me,  
to be the Mayor of the City of Nampa, whose name is subscribed to the within and foregoing  
instrument and acknowledged to me that he executed the same, and was so authorized to do so  
for and on behalf of said City of Nampa.



STATE OF IDAHO )  
 ) ss.  
County of Canyon )

CONRAD AND BISCHOFF DEVELOPMENT AGREEMENT – Page 6



EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

FOR: Conrad & Bischoff  
JOB No. 17-501  
DATE: April 25, 2018  
BY: CDB

EXHIBIT "A"

Annexation Description

All of SW1/4SE1/4 and SE1/4SE1/4 of Section 4, Township 3 North, Range 2 West, B1M, Canyon  
County, Idaho lying westerly of the Idaho Northern Railway described as:

Commencing at the SW corner of said SW1/4SE1/4 point being N29°37'38" W (record  
N89°37'38" W) 2653.02 feet from the SE corner of said Section 4; thence N00°29'47" E (record  
N00°30'00" E) 1328.00 feet to the north line of said SW1/4SE1/4; thence along said north line of  
said SW1/4SE1/4 S89°33'27" E 1002.65 feet (record S89°33'24" E 1002.55 feet) to the westerly right  
of way of the Idaho Northern Railway; thence along said right of way S18°44'55" E 1398.78 feet  
(record S18°44'46" E 1398.79 feet) to the south line of said Section; thence along said south line  
N89°37'57" W 1223.70 feet (record N89°37'38" W 1223.49 feet) to the Point of Commencement.

Parcel Contains 39.25 Acres more or less



FOR: Conrad & Bishoff

JOB No. 15-501

DATE: April 25, 2016

BY: CGS

EXHIBIT "A"

Annexation Description

All of SW1/4SE1/4 and SE1/4SE1/4 of Section 4, Township 3 North, Range 2 West, B.M., Canyon County, Idaho lying westerly of the Idaho Northern Railway described as:

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Parcel Contains 39.25 Acres more or less



EXHIBIT B

**EXHIBIT(S) "B"**  
**CONCEPTUAL PLAN(S)**

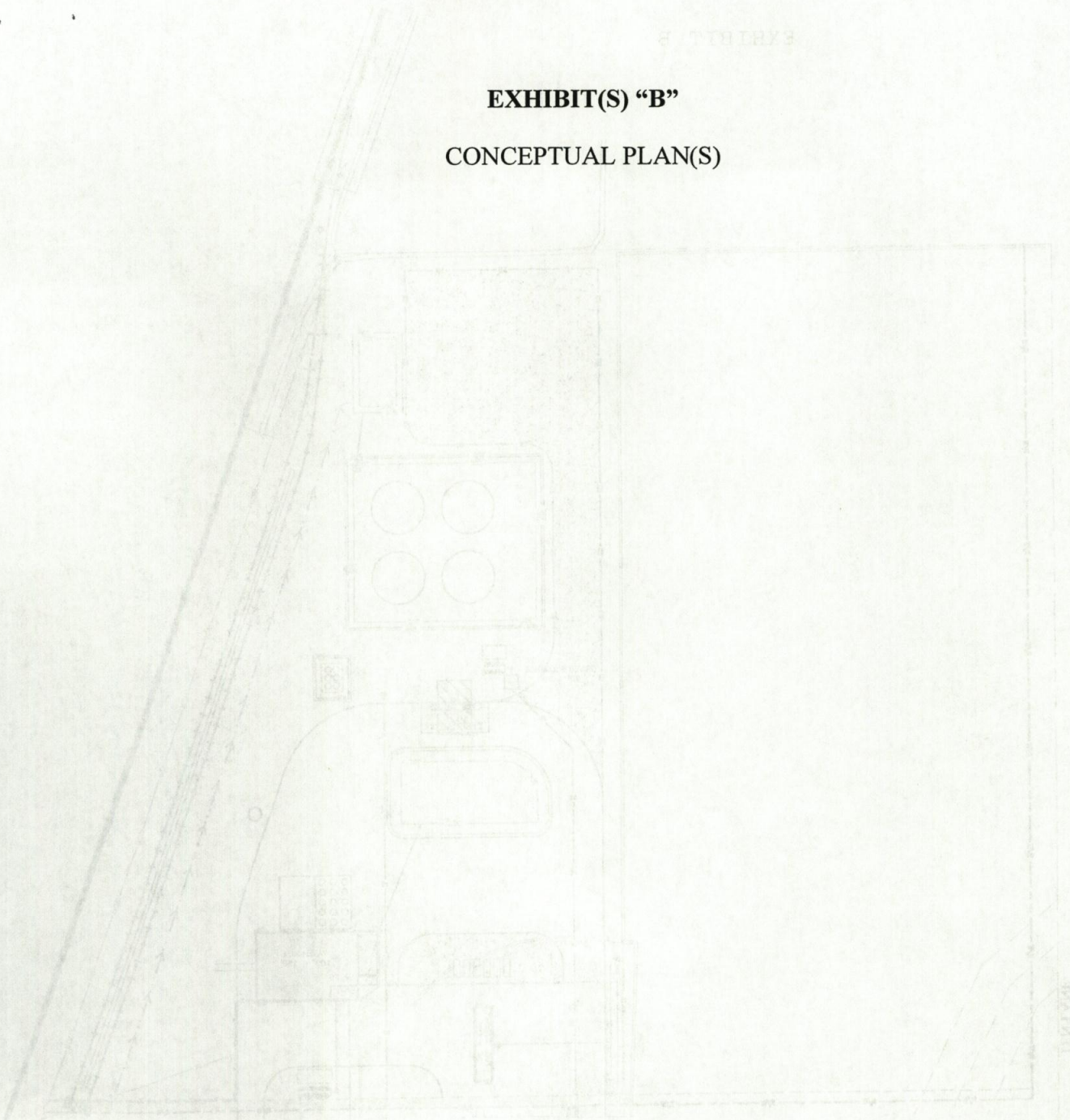
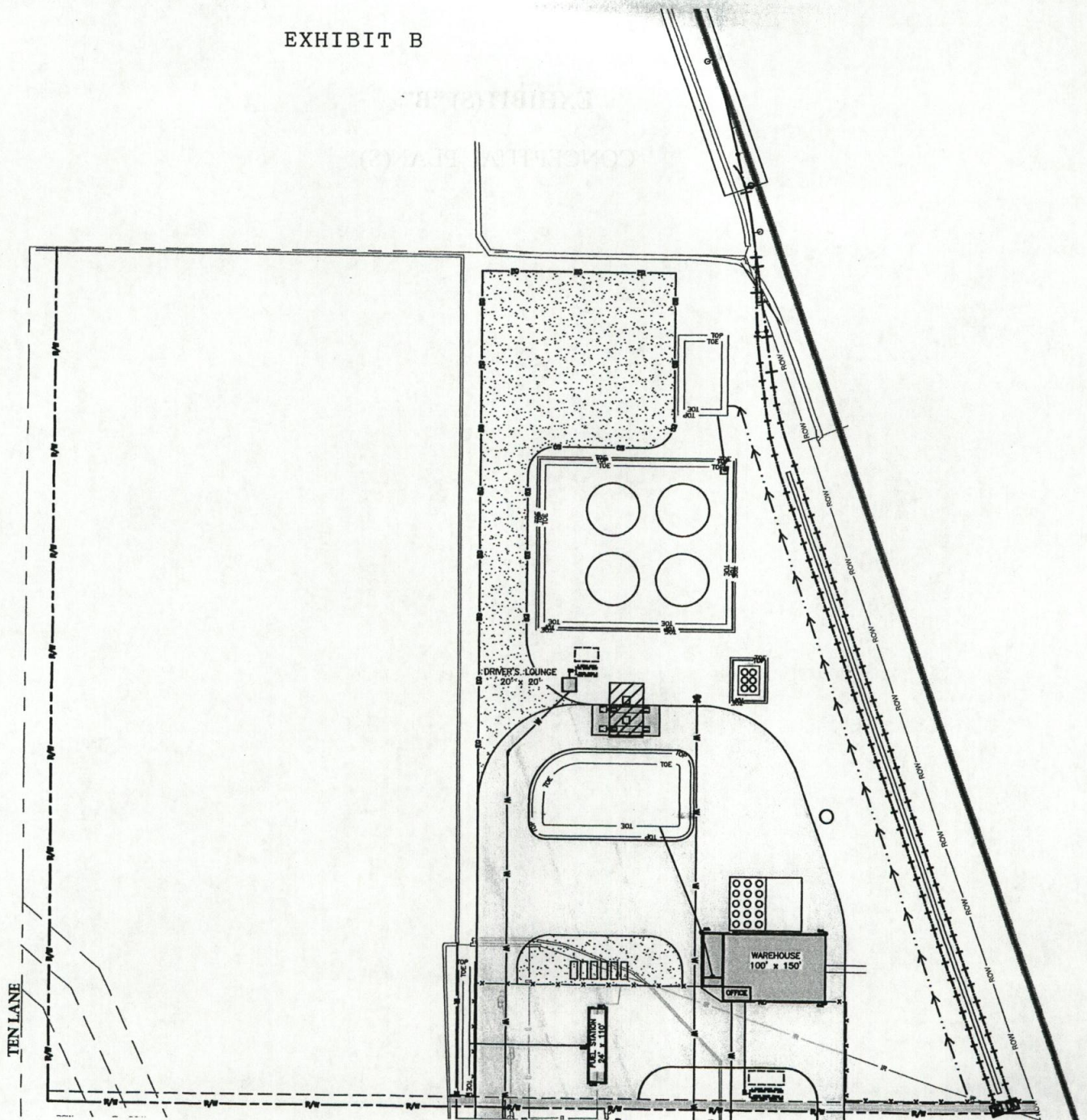




EXHIBIT B





## EXHIBIT "C"

### CONDITION(S) OF APPROVAL

#### I. General:

- a. At time of development of the Property, the Developer shall extend, at their expense, all public utilities to and through the Property in accordance with current City policy and master plans. These improvements shall include, but not be limited to the following:
  - Sewer (dry line sewer main is and shall be required along Property's street frontage; City will assist the design engineer in establishing the grades for the dry line sewer)
  - Pressure Irrigation (12" dry-line pressure irrigation main required along entire Property frontage -- alignment and location to be in accord with City's adopted Comprehensive/Master Plan)
  - Storm drainage-both on and off-site
  - Easements (shall be provided for all on Property utilities in accordance with the requirements of the utility purveyor)
- b. Developer shall grant any access or facility easements for, and to, the City of Nampa and any other utility company or jurisdictional entity as necessary for the operation and maintenance of any utility existing, proposed, or relocated with the development of the Property; and,
- c. Continued use of a septic system, due to City sewer not being available at the time of this Agreement's execution, is required to be permitted through the Southwest District Health Department; and,
- d. Access to any irrigation district laterals or facilities is maintained in accordance with the irrigation district's policies. The developer may be required to enter into a license agreement with the district regarding access and improvements to their facilities. Plans for any proposed improvements are required to be approved by both the irrigation district and the City of Nampa.
- e. Abandonment of any existing domestic well or septic systems will be accomplished under the guidelines established by:
  - Domestic Well - the Idaho Department of Water Resources (unless to be utilized as an irrigation supply for the required landscaping)
  - Septic Systems – Southwest District Health Department
  - Copies of all related documents certifying that the well and septic systems have been abandoned shall be forwarded to the City of Nampa Engineering Division for the project files.
- e. All on-site [Property] building and any parking lot lighting be boxed/shielded, down directed and that foot-candle output of fixtures [particularly on the east and south sides of the building(s)] be kept to a minimum; and,



## **II. Access, Right-of-Way and Frontage:**

- f. Property access shall be established in accordance with Nampa's currently adopted Access Management Policy; and,
- g. Right(s)-of-way dedication shall be required and executed by the Developer to accomplish full rights-of-way widths as follows: Cherry Lane – Functional Classification of that road is noted as being an "Arterial". Width of that street's right-of-way shall be 50' from centerline thereby comprising one-half of a future 100' right-of-way total span/width; Ten Lane – Functional Classification of that road is noted as being a future "Collector". Width of that street's right-of-way shall be 40' from centerline thereby comprising one-half of a future 80' right-of-way total span/width; and,
- h. Full Property frontage improvements are required along Cherry Lane on the parcel or within the phase within which new project construction is commenced, to include (but not be limited to) to the following:
  - Curb, gutter, and sidewalk as required by the City
  - Pavement widening and striping as required by the City
  - Landscaping as required by the City (i.e., per zoning code standards in Title X, chps. 33 and 22)
  - Storm drainage facility emplacement and/or improvement(s) as required by the City

(Any requested deferral(s) to the fore-going requirements shall be made in writing to the City Engineer and must be approved by the City to be considered valid and of effect.)